

**EAST HELENA NRD SETTLEMENT  
FUND (08231)  
EARLY RESTORATION PROPOSALS**

**APPLICATION and INSTRUCTION FORM**

**APRIL 2013**

**PREPARED BY:**

**STATE OF MONTANA  
NATURAL RESOURCE DAMAGE PROGRAM  
1301 EAST LOCKEY  
P. O. BOX 201425  
HELENA, MT 59620-1425**

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# Introduction

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The State of Montana will entertain the funding of Early Restoration Projects for restoring injured or lost natural resources associated with the East Helena Natural Resource Damages (NRD) Site. This document describes the process for the submittal and consideration of proposals for such funding, identifies the eligible project types and their potential locations, and summarizes the Early Restoration Proposal submittal requirements. This document also provides a description of the proposal evaluation and funding decision and approval process. Approved Early Restoration Proposals would be funded through the East Helena NRD Settlement Restoration Fund.

In 2006, the State of Montana filed several environmental claims, including remediation and NRD, against ASARCO in the bankruptcy proceeding that had been filed in the federal bankruptcy court in Corpus Christi, Texas in August 2005. The court approved a final settlement of the ASARCO bankruptcy litigation and adopted an ASARCO reorganization plan in December 2009. As part of that settlement, ASARCO separately paid approximately \$5.9 million to the State for restoration of natural resources in the East Helena area to settle the State's compensatory NRD claims, plus ASARCO conveyed an option to the State to acquire 232 acres of ASARCO-owned land in the East Helena area to be used for wildlife habitat restoration, recreation and open space. The \$5.9 million was placed in East Helena NRD Settlement Restoration Fund, which is a State of Montana special fund that was created for the settlement. These restoration funds are in addition to the approximate \$115 million paid by ASARCO to clean up and restore the former ASARCO Smelter site and other contaminated lands in the East Helena area.

Federal NRD regulations provide that prior to spending NRD funds, a state must prepare a comprehensive restoration plan that provides for the expenditure of such funds on appropriate projects that would restore, rehabilitate or replace the injured or lost natural resources that were the subject of the NRD claim. An exception to that rule has developed that allows what is referred to as "Early Restoration." In this case, the State of Montana has not embarked upon developing its Restoration Plan as it is awaiting the determination of the final clean-up actions at the former ASARCO Smelter site, including Prickly Pear Creek as it runs along that site. Rather than implementing no restoration until that time, however, the State has decided to put out for public consideration and comment this document that, if finally approved by the Governor, would fund relatively small, but critical, early restoration projects that meet certain criteria.

To be funded, Early Restoration Projects must restore or substantially improve or replace the relevant injured natural resources. All Early Restoration Proposals must be located within the vicinity of the former ASARCO Smelter site and must be time critical, of great importance, and capable of being implemented within 24 months of funding approval. Also, to assure that Early Restoration does not use up a large proportion of the Restoration Fund, no individual Early Restoration Proposal will be funded for more than \$100,000. These and all other additional requirements for project funding are described in this document.

# Section 1

## Overview of the Application Process for Funding East Helena NRD Early Restoration Proposals

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This application and instruction booklet is based on the criteria and procedures specified for Early Restoration Proposals in the April 2012 *Final Upper Clark Fork River Basin Interim Restoration Process Plan (Process Plan)*. Applications for funding call for a fairly high level of detail, so early restoration proposals need to be well developed. This booklet includes:

- Section 1 – Funding overview section that summarizes application eligibility and submittal procedures;
- Section 2 – Instructions for Completing and Submitting an Early Restoration Proposal Application Form that specifies the steps for completing an application;
- An “Application Checklist” to be completed and submitted with application materials;
- An “Applicant Information and Proposal Summary Form” to be filled out by all applicants and attached to the front of the completed application;
- Instructions for completing the Proposal Abstract;
- Instructions for completing the Technical Narrative;
- Instructions for completing the Environmental Impact Checklist and Narrative;
- Instructions for completing the Criteria Statements;
- Instructions for the Proposal Budget Estimate Forms and Budget Narrative; and
- Supplemental guidance in Attachment A. Additional guidance is on the NRD Program (NRDP) website at [www.doj.mt.gov/lands](http://www.doj.mt.gov/lands).

### **APPLICATION SUBMITTAL**

Applicants shall submit an application containing the following:

- An **original and four (4) additional copies (one copy unbound)** of the application including all supporting documentation.
- Project area and project location maps.
- Color maps or photos that are included in the application must be included in all copies.
- Continuous page numbers and a table of contents.
- A **compiled** version of the application in WORD format, the budget forms in EXCEL format, and an electronic version of the project maps.
- A shapefile of project area (if readily available).

The application material should be sent to:

**State of Montana  
Natural Resource Damage Program  
1301 E. Lockey Avenue  
P.O. Box 201425  
Helena, MT 59620-1425  
Phone: 406-444-0205**

If you have questions, or if the NRDP staff can help you in any way, please contact the NRDP office at (406) 444-0205.

### **APPLICANT ELIGIBILITY**

Governmental entities, private individuals who are U.S. citizens, and private entities are eligible to submit East Helena NRD Settlement Early Restoration Proposals.

### **EARLY RESTORATION PROPOSAL ELIGIBILITY RESTRICTIONS**

Eligible projects are those that will improve injured natural resources or lost services. In addition, early restoration proposals must be also be time critical, of great importance, of limited costs—less than \$75,000, and capable of being implemented within 24 months of Trustee funding approval. Applicants for early restoration proposals must demonstrate that their proposals merit an expedited funding decision ahead of completion of the natural resource restoration plans to be developed for the East Helena NRD site.

### **LOCATION ELIGIBILITY RESTRICTIONS**

All early restoration project proposals for must be located within the vicinity of the Former ASARCO East Helena Smelter.

### **FUNDING SELECTION PROCESS**

#### **Minimum Qualification Screening**

To assure that each proposed project meets the minimum qualifications for funding, the NRDP will conduct an initial application screening focused on the following items:

1. That the application is completed fully and accurately, with all necessary information.
2. That the proposed project would restore, rehabilitate, replace, or acquire the equivalent of the natural resources injured or services lost as a result of releases of hazardous substances by ASARCO or its predecessors.
3. That the proposed project be located within the vicinity of the Former ASARCO East Helena Smelter for which the State made NRD claims in the ASARCO bankruptcy proceeding.

4. That the proposed project is time critical, of great importance, and capable of being implemented within 24 months of funding approval.
5. That the project will not potentially interfere, overlap, or partially overlap with the remediation or restoration work provided for or planned under existing or anticipated consent decrees, Record of Decisions, Work Plans, or restoration plan.
6. The estimated cost of the project must be less than \$75,000.

If the NRDP determines a project does not meet the minimum qualifications for funding, the applicant, within 15 days of receiving written notice of this determination, may appeal the determination to the Trustee Restoration Council (TRC). Early restoration proposals, which are consistent with items 2, 3, and 5 above, that are not accepted for early restoration will, at the applicant's request, be considered for inclusion in the subsequent restoration plan.

### Application Evaluation

All applications will be thoroughly reviewed and evaluated by the State. This application packet specifies the criteria the State will use to evaluate early restoration proposals that meet the minimum qualifications. The NRDP will assess the degree to which each such proposed early restoration project meets each criterion. If each proposed project that meets the minimum qualifications, the NRDP will prepare a draft "Early Restoration Plan" that contains its recommendations for funding or not funding the project, and the reasons for its recommendations based on its analysis. This draft Early Restoration Plan will be subject to a 30-day public comment period and subsequently considered by the TRC and Governor. Based on input from the NRDP, TRC, and the public, the Governor will make a final funding decision.

### Project Implementation and Applicant Responsibilities

Upon approval of an early restoration plan, an applicant will be required to enter into a grant agreement with NRDP before any funds can be expended or received. The model grant agreement available on the NRDP's website indicates the general applicant responsibilities.<sup>1</sup> Detailed scopes of works, budgets, and project schedules are required in all agreements, and must be approved by NRDP before any work, which will be paid for by East Helena NRD Settlement Restoration fund, can begin. Expenses incurred by an applicant before the grant agreement becomes effective will not be reimbursed.

The NRDP will ensure that any approved early restoration projects are implemented by the applicants consistent with scope and budget of the project as approved. Accordingly, prior to beginning construction, and preferably before bid packages are advertised, an applicant will be required to submit final design plans to the NRDP for review and concurrence that the proposed design is consistent with the approved proposal. The State shall have the authority to terminate project funding if it finds that the project design is not consistent with the approved proposal, including the 24 month project completion requirement.

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<sup>1</sup> <http://doj.mt.gov/wp-content/uploads/2011/06/samplegrantagreement.pdf>

# Section 2

## **Instructions for Completing the Early Restoration Proposal Application**

This section outlines the 6 steps to follow in submitting a completed Early Restoration Proposal Application Form for funding consideration. **All applications must contain continuous page numbers and a table of contents.** Applicants are also expected to inform the NRDP during the application review process of any developments that would affect the viability of the proposed project. NRDP staff may contact the applicant to obtain omitted information, to clarify issues, or to verify information contained in the application. **All applications are subject to public review.** If an applicant wishes to keep information confidential, it must meet the confidentiality conditions specified in the Guidance on Confidentiality available upon request or from the NRDP website and be submitted in accordance with the procedures specified therein.

### **EAST HELENA NRD SETTLEMENT EARLY RESTORATION PROPOSAL APPLICATION CHECKLIST (This Checklist Must Be Included With the Application)**

To check for application completeness, be sure that the following items are included in your application. **Make sure the pages have been numbered continuously in your application and you have included a table of contents.**

- \_\_\_\_\_ **Application Materials**
  - \_\_\_\_\_ **Original and four (4) copies (one unbound) including all supporting documentation**
  - \_\_\_\_\_ **Project Area and Project Location Maps**
  - \_\_\_\_\_ **Continuous Page Numbering and a Table of Contents**
  - \_\_\_\_\_ **A Compiled (into one file) electronic version of the application in WORD format. Budget forms should be submitted in EXCEL.**
  - \_\_\_\_\_ **A shapefile of project area (if readily available)**
- \_\_\_\_\_ **Step 1. An “Applicant Information and Project Summary Form”**
- \_\_\_\_\_ **Step 2. A Project Abstract**
- \_\_\_\_\_ **Step 3. Technical Narrative**
  - \_\_\_\_\_ **Project Area Map**
  - \_\_\_\_\_ **Project Location Map**
- \_\_\_\_\_ **Step 4. Environmental Impact Checklist and Narrative**
- \_\_\_\_\_ **Step 5. Criteria Statements**
- \_\_\_\_\_ **Step 6. A Proposal Budget using attached EXCEL spreadsheet, including:**
  - \_\_\_\_\_ **a. A Budget Summary Form**
  - \_\_\_\_\_ **b. Budget Detail Forms**
  - \_\_\_\_\_ **c. A Budget Narrative**

## **Step 1. Applicant Information and Project Summary Form**

1. **Name of Applicant(s)** \_\_\_\_\_
2. **Project Title** \_\_\_\_\_
3. **Type of Entity\*** \_\_\_\_\_  
(city, corporation, private individual, association, etc.)

(\***Corporation** and **Foundation** applicants are required to submit corporation information as follows: Articles of Incorporation, and Certificate of Good Standing. **Partnership** applicants are required to submit a Partnership Agreement and a list of the names of the Partners. **Limited Liability Company** applicants are required to submit Articles of Organization, a list of the members/managers, and Certificate of Good Standing. **Non-Profit Associations** are required to submit a list of members, Articles of Incorporation and Certificate of Fact. **Non-Profit Corporations** are required to submit Articles of Incorporation and Certificate of Good Standing. **Please attach these documents to this form.**)

4. **Description of Project Location (Attach maps showing project area and project location per instructions under Technical Narrative (Step 3A))** \_\_\_\_\_

5. **Injured Natural Resource(s) and/or Impaired Services to be Restored, Rehabilitated, Replaced or Equivalent Acquired through Project** \_\_\_\_\_

6. **Authorized Representative:** \_\_\_\_\_  
(Name) (Title)  
**Mailing Address:** \_\_\_\_\_  
(Street/PO Box)  
\_\_\_\_\_  
(City/State/Zip) (Telephone)  
**Contact Person\*:** \_\_\_\_\_  
(Name) (Title)  
**Mailing Address\*:** \_\_\_\_\_  
(Street/PO Box)  
\_\_\_\_\_  
(City/State/Zip)  
**Phone:** \_\_\_\_\_  
**E-mail Address:** \_\_\_\_\_

(\*For Corporate, Partnership, L.L.C., or Cooperative Association applicants, list Registered Agent and Office for Service of Process)

## 7. Proposed Funding Sources and Estimated Costs

On the table below, enter the source and amount of all funding that may be used for this project. Indicate all potential sources of funds that you intend to apply for this project, even if you have not yet applied for the funds or have not yet received a commitment from the source. Indicate whether matching funds are cash or in-kind.

Proposed Funding Source Form					
East Helena Settlement Restoration Fund				Amount in (\$) Dollars	Funding Percentage
Matching Funds					
Matching Fund Source		Cash Matching Funds	In-kind Matching Funds	Amount in (\$) Dollars	Funding Percentage
A					
B					
C					
D					
E					
F					
Total Cash Match				Total Cash % →	
Total In-kind Match		→ → → → →		Total In-kind % →	

(Lightly shaded areas are automatically calculated on the electronic version of this form)

Estimated Total Project Cost

## 8. Private (non-Governmental) Applicant Financial Information

- Are there any lawsuits, judgments, or obligations pending for or against you? \_\_\_\_\_
- Have you ever declared bankruptcy? \_\_\_\_\_
- Are any of your tax returns delinquent or under dispute? \_\_\_\_\_
- Any unpaid deficiencies? \_\_\_\_\_
- Are you a party to a lawsuit? \_\_\_\_\_
- Do you have any other contingent liabilities? \_\_\_\_\_
- Do your current and deferred liabilities exceed the value of your assets? \_\_\_\_\_

Explain all **YES** answers in a statement attached to this form.

**9. Certification for Individuals or Private Entities**

Individuals or private entities requesting funds must sign the following certification.

**Certification for Individuals or Private Entities**

I (We) the undersigned, have provided this financial information as part of my (our) application for an Early Restoration Proposal. I (We) certify that the statement is complete and accurate to the best of my (our) knowledge and I (we) authorize the State of Montana to investigate my credit worthiness and any of the matters described above.

**Individual(s)**

_____	_____	_____
Name	Signature	Date

_____	_____	_____
Name	Signature	Date

**Private Entities**

_____	_____	_____	_____
Name of Authorizing Agent	Federal Tax ID No.	Signature	Date

**10. Authorizing Statement**

An authorized agent/agents representing the applicant must by his/her signature indicate that the application for funds and expenditure of matching funds, as represented, is officially authorized.

**Authorization**

I hereby declare that the information included in and all attachments to this application are true, complete, and accurate to the best of my knowledge, and that the proposed project complies with all applicable state, local, and federal laws and regulations.

I further declare that, for \_\_\_\_\_ (Project Sponsor), I am legally authorized to enter into a binding contract with the State of Montana to obtain funding if this application is approved. I understand that the Governor must authorize funding for this project.

_____	_____
Project Sponsor	Date

_____	_____
Authorized Representative (signature)	Title

\_\_\_\_\_  
Fed Tax Id. No.

## **Step 2. Proposal Abstract**

Prepare a clear and concise description of your proposal, identifying its priority location, describing its time-critical and great importance nature meriting expedited funding and its benefits to the natural resources. Also include schedule (implementation within 24 months) general information on costs, tasks involved in the project, and project partners. This proposal abstract **as submitted** will be used to inform reviewers and the public about your proposal. Your abstract should not exceed two typed pages. Examples of abstracts are available upon request.

On your own paper, use the following format for your abstract.

# Proposal Abstract

**Applicant Name:** \_\_\_\_\_

**Project Title:** \_\_\_\_\_

### Project Description and Benefits to Restoration:

### **Step 3. Technical Narrative**

Describe the work to be done with the East Helena NRD Settlement Restoration funds and with any matching funds committed to the project. This description must provide sufficient detail to verify that the project is located in eligible priority areas, is time critical and of great importance, technically feasible (including ability to implement project within 24 months) and will achieve its objectives. This information will be used as the scope of work for a contractual agreement for implementation of an approved Early Restoration Proposal.

Use the “Outline for Technical Narrative” on the following pages to organize your presentation and to ensure that nothing is omitted from your discussion. It is important that all basic information requested in the “Outline for Technical Narrative” be provided in the main text of the application, not the appendices. Any appendices should provide ancillary supporting information and should not serve as the primary source of information. If critical information is buried in the appendices, the applicant risks that it will not be given due consideration in the evaluation of the Early Restoration Proposal.

Organize the technical narrative of your application based on the major headings in the outline (e.g., Project Location, Project Need, Project Goals and Objectives), but DO NOT repeat

any of the explanatory text contained in the application under these headings in your application. For example, under the “A. Project Location” subheading, do not repeat explanatory text that describes the two types of needed maps.

The Technical Narrative should not include budget information, which is requested under Step 6. Please use the following format in presenting your Technical Narrative on your own paper:

## **Technical Narrative**

**Applicant Name:** \_\_\_\_\_

**Project Title:** \_\_\_\_\_

**(Text of Technical Narrative)**

### **OUTLINE FOR TECHNICAL NARRATIVE**

#### **A. Project Location – *Where is the project located?***

1. Provide at least two maps or aerial photographs. One aerial photo/map should be 8.5 X 11 inch in size that shows the project location in relation to a well-known landmark, such as a town or city. The second aerial photo/map should be at an appropriate scale that shows the details of the project as necessary. Please provide any additional maps that may be needed to identify and explain your proposal. All maps/aerial photos need to include pertinent topographic and geographic information, scale, and north arrow.
2. Specifically describe the project's location as it relates to the location of the Former ASARCO East Helena Smelter.

#### **B. Describe Project Need and Exigency/Define the Problem – *Why is there a problem?***

1. Specifically describe the problem that this project will address. What are the identified and potential causes of the problem or what circumstances precipitated the need for the project? Of these, what are the limiting factors – those factors that are most responsible for the causes of the current condition?
2. Which of these factors has been quantified and to what degree? Describe any uncertainty about the importance of these factors.
3. Describe any other ongoing or past efforts to address the needs of the project, including any unsuccessful past efforts.
4. Explain why your proposal is time critical and of great importance such that it merits an expedited funding decision ahead of completion of the restoration plan to be developed.

#### **C. Describe the Project Goals and Objectives – *What is the Proposal's Purpose?***

Note: The success of a project is determined upon achieving the stated goals and objectives. If possible, all goals and objectives should be measurable, either quantitatively or qualitatively. Under the Monitoring Plan (item D9), applicants are asked to address the link between the goals and objectives and the proposed monitoring tasks.

1. What are the goals of this project, or the problems you intend to solve through implementation of this project?
2. What are the specific project objectives you plan to accomplish in order to achieve these goals?
3. What quantitative and/or qualitative results, if any, will this project achieve?
4. How will it improve injured natural resources or lost services?

Note: A goal is a broad statement that identifies the desired future condition or end toward which an endeavor is directed. Objectives are descriptions of measurable outcomes or specific desired end points that are used to determine whether or not the goal has been successfully accomplished. Tasks are the steps needed to reach desired end points/future conditions. Goals and objectives are identified in this section of the Technical Narrative; tasks are identified under the next section.

**D. Describe the Project Implementation Plan – *How will the proposal be conducted?* Describe in chronological order the individual tasks or activities necessary to accomplish the work under each objective.**

1. Describe the overall approach to project implementation, and generally describe how the project is capable of being implemented within 24 months of Trustee funding approval.
2. Identify each of the project phases, and the specific tasks comprising each phase and relate them to the project goals and objectives. For construction projects, discuss each phase of construction, including any planning or design activities that must be completed before initiating any construction activities. Indicate the level of design that has been completed for the project (e.g., conceptual, 60%, 90%) that is the basis for construction cost estimates. Describe the tasks proposed to move from the current condition to the desired future condition and how the proposed tasks will impact the current condition in a demonstrable manner.
3. Identify the project staff for the particular tasks and quantify the staffing time necessary to complete the project.
4. Identify the contracted services necessary to complete the project. NRDP procurement guidance (<http://doj.mt.gov/lands/>) requires that most contracted services above \$5,000 be competitively bid. Indicate whether you have conducted the competitive procurement process for such services or plan to competitively bid such services after the Governor's funding decision.
5. Identify any permits, regulatory approvals, or property access agreements that have been obtained or will be needed to complete the project. If you propose work on private land that will cause ground disturbance, provide an updated property ownership map and documentation of the landowner's consent to the proposed work that would disturb private land. Ownership information should be verified through the State Cadastral database (<http://nris.mt.gov/nsdi/cadastral>).

6. Indicate whether the project is a phase of a larger project for which additional funding is needed and, if so, the targeted funding sources. Examples include a stream restoration project on a particular reach that is one part of an entire stream restoration effort.
7. Describe the measures that will be undertaken to ensure long-term effectiveness.
  - a. Describe the measures that will be undertaken to ensure that the intended resource improvements will be maintained in the long-term. If the work will occur on private land, explain what measures will be used to assure that future land management activities will not disrupt areas that will be restored and/or diminish the projects benefits. Include documentation of the current landowner's commitment to conduct these measures. For additional guidance on this issue, please consult the NRDP's "Guidance for Work on Private Lands," which is available upon request or from the NRDP website.
  - b. For aquatic and terrestrial construction projects, identify the service life of the proposed improvements, indicate what routine maintenance will be performed to upkeep the improvements in the long-term, and indicate what entity is committed to performing and funding these routine maintenance activities. Provide documentation, such as a letter, from that entity verifying this future commitment.
8. Describe Methods and Technical Feasibility of the Proposed Project.
  - a. Provide a detailed description of methods to be used to conduct specific tasks, including appropriate citations/documentation.
  - b. Describe how this approach has been used successfully to address similar problems, if it has.
  - c. What are the certainties and uncertainties associated with any innovative approaches to the proposed project?
  - d. Are there any uncertainties in the proposal that require further resolution? Please discuss these uncertainties, including uncertainties associated with a proposal that is based on a conceptual design.
  - e. Are there any data gaps and how do you propose to address them?
  - f. Describe any potential complications and how they may affect the implementation time schedule.
9. Describe the Monitoring Plan.
  - a. Describe proposed quantitative (e.g., sampling parameters) and/or qualitative (e.g., photo surveys) monitoring activities. Include a description of the link between the goals and objectives specified under Item C with the proposed monitoring tasks. If you have a project for which the success can be determined without monitoring (e.g., a land acquisition), or for which the monitoring needed to document success would not be cost-effective, provide such justification.
  - b. Describe what monitoring data will be collected, why, how, and by whom.
  - c. Describe how problems will be addressed if monitoring indicates objectives are not being met.
  - d. How does this monitoring effort consider or coordinate with other monitoring activities being conducted within the vicinity of the project area?

**E. Provide a Project Time Schedule – *When will the proposal be done?***

The format of the project schedule may be either a list of activities, table, or flow chart. The schedule should provide the State with a time frame for the project from the starting date through completion of the project (project implementation within 24 months). The schedule should specifically describe how the project is capable of being implemented within 24 months of Trustee funding approval. Tasks or activities should be listed in the expected completion sequence. If particular tasks must be completed prior to others, this should be indicated. In planning a schedule, keep in mind that successful applicants must enter into a contractual agreement with NRDP before work can begin on a project. If desired, include the schedule with the list of tasks (Item D). For example, the following expected dates in the project schedule may be applicable to some proposals:

1. Dates for submittal and receipt of required permits, licenses, agreements, and approvals;
2. Dates for advertising bids and requests for proposals, and contract award dates;
3. Expected dates that each task or activity will begin and end; and
4. Expected project completion date.

**F. Describe Qualifications of the Project Team – *Who will be conducting the work?***

Briefly summarize the skills, qualifications, and experience of the project team.

**G. Provide Supporting Technical Documentation**

1. List of references and literature citations pertinent to the project and technical approach.
2. List of unpublished materials relevant to the technical feasibility of the project and indicate where these materials are located. Be prepared to provide copies of these materials upon request.
3. Copies of easements, right-of-way, or other access agreements, and copies of other documents required to complete the project. If these are not available, outline what will be pursued as part of project implementation, and provide copies of any boilerplate agreements that will be followed.

**This supporting documentation should be provided as a separate appendix to the main text of the application.**

**Step 4. Environmental Impact Checklist and Narrative**

All applicants must evaluate the proposal's potential impacts to the physical and human environment. Analysis of these potential impacts can alert applicants to considerations in the location, design, or construction of projects that will help to avoid adverse environmental impacts or expensive mitigation or construction costs. The State will use the information provided in this checklist and narrative, along with any necessary supplemental information, to assure that all adverse environmental impacts and reasonable alternatives have been adequately characterized and considered during decision making.

Provide a narrative evaluation of the proposal's potential impacts to the physical and human environment. This includes an analysis of potential socio-economic impacts, such as the changes in property tax revenues, employment, and agricultural, commercial or industrial

production that might result from the project. Use the checklist on the following pages as a guide in your consideration of these impacts. The discussion should include direct and secondary adverse impacts that could arise from the project in the short- or long-term, including those that involve resources that are not a part of the project. Direct impacts are those that occur at the same time and place as the action that triggers the event. Secondary impacts are those that occur at a different location and/or time than the action that triggers the event.

- A. Discuss in the narrative those items identified on the checklist where a potentially adverse impact will occur, where a permit or approval will be required, or where mitigation will be required. Characterize the degree of significance of these impacts (e.g., minor, moderate, or major) and whether they are short- or long-term, direct or secondary.
- B. Where a potentially adverse impact to the environment or human health is projected, the applicant must provide the following:
  - 1. A description and analysis of any reasonable alternatives that would avoid the impact and a justification for the selected alternative; and
  - 2. An evaluation of appropriate short- and long-term measures to mitigate each potentially adverse impact and a discussion of the effects of those mitigation measures on the proposed project.

As part of its analysis of impacts to human health and safety, the State will determine if protective measures should be added to the project to ensure safety.

**Instructions For Completing the Environmental Impact Checklist:** Complete the attached Environmental Impact Checklist and Narrative for the proposed project. The NRDP will review the information provided and prepare its own evaluation to determine whether further information is required. For each impact category, five possibilities are listed on the form:

- 1. No Impact or Not Applicable to this project
- 2. Potentially Adverse Effect
- 3. Potentially Beneficial Impact
- 4. Agency Approval or Permits Required
- 5. Mitigation Action(s) Required

Space is provided next to each of the subject areas. Check the appropriate box that characterizes possible impacts. In some cases, it may be appropriate to indicate more than one possibility.

### Environmental Impact Checklist (use this format)

Impacts to Physical Environment	No Impact	Potentially Adverse	Potentially Beneficial	Permits or Approvals Required	Mitigation Required
1. Soil suitability, geological or topographic constraints					
2. Air quality					
3. Groundwater resources and quality					
4. Surface water quality, quantity and distribution systems					
5. Floodplains and floodplain management					
6. Wetlands protection					
7. Terrestrial and avian species and habitats					
8. Aquatic species and habitat					
9. Vegetation quantity, quality and species					
10. Unique, threatened or endangered species or habitats					
11. Unique natural features					
12. Historical and archeological sites					
13. Aesthetics, visual quality					
14. Energy resources, consumption, and conservation					

Comments: (use additional pages if necessary):

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<b>Impacts to Human Environment</b>	<b>No Impact</b>	<b>Potentially Adverse</b>	<b>Potentially Beneficial</b>	<b>Permits or Approval Required</b>	<b>Mitigation Required</b>
15. Human Health and Safety					
16. Agricultural production (grazing, forestry, cropland)					
17. Access to recreational activity, public lands, open space					
18. Nuisances (odor, dust, glare)					
19. Noise (e.g. separation between housing and construction areas)					
20. Hazardous substance handling, transportation and disposal					
21. Local and state tax base and tax revenue					
22. Employment, population, or housing					
23. Industrial and commercial production					
24. Land use compatibility; Consistency with local ordinances, or solutions, or plans					
25. Demands for governmental services (e.g. site security, fire protection, community water supply, wastewater or stormwater treatment, solid waste management)					
26. Transportation networks and traffic flow					
27. Social structures and mores					
28. Cultural uniqueness and diversity					

Comments: (use additional pages if necessary):

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## **Step 5. Instructions on How to Complete Criteria Statements**

Applicants need to address each applicable criterion in individual criteria statements. **For each criterion, please provide sufficient information about the proposed project that will allow the State to evaluate your proposal as it relates to that specific criterion.**

The criteria that applicants are to address in their criteria statements are generally discussed on the following pages, and specific issues that should be addressed relevant to each criterion are listed. The issues discussed are suggested to help you organize your statement but are not exclusive. The discussion indicates how certain criteria may favor or disfavor a project in the State's overall evaluation. Some overlap of issues may be encountered, and applicants may cross-reference other sections of the application where appropriate to avoid duplication of effort. Additionally, depending on the type of proposal, some of the suggested issues for discussion may not be applicable to a particular proposal. Four of the criteria require information that may not be readily available to applicants. For these four criteria, applicants should describe available pertinent information of which they are aware to assist the State in its evaluation of these criteria.

On your own paper, please follow this format and be sure to address each criterion that is applicable to your proposal:

### **Criteria Statements**

**Applicant Name:** \_\_\_\_\_

**Project Title:** \_\_\_\_\_

1. (insert name of criterion): **[text]**
  2. (insert name of criterion): **[text]**
- (Continue format for all applicable criteria)**

#### **1. TECHNICAL FEASIBILITY**

This criterion is addressed in the technical narrative under Step 3; therefore, no additional response is required here.

#### **2. RELATIONSHIP OF EXPECTED COSTS TO EXPECTED BENEFITS**

This statement should provide information regarding whether a project's costs are commensurate with the benefits it provides. The benefits described should include a discussion of the applicant's view of the project's great importance. The State will evaluate all costs associated with the project, including costs other than those needed simply to implement the project, and the benefits that would result from a project. Application of this criterion is not a straight cost/benefit analysis, nor does it establish a cost-benefit ratio that is by definition

unacceptable. If cost and benefits of the project cannot be quantified, provide a narrative discussion of the cost and benefits.

- A. Describe and, if possible, quantify the direct and indirect costs of the project.
- B. Describe and, if possible, quantify the direct and indirect benefits of the project
  - 1. Describe direct and indirect benefits to injured natural resources located within the vicinity of the Former ASARCO East Helena Smelter.
  - 2. Describe direct and indirect benefits to lost services or replacement services, including any increased public access provided by the proposal. If possible, quantify the number of public users that will benefit from the improvements associated with the proposal.
  - 3. Describe other direct and indirect public benefits.

Benefits and costs of the project are “direct” if they accrue to a targeted group of people and/or the natural resources and services that are affected by the project. “Indirect” benefits and costs accrue to the general public and resources and services that are affected by the project but are not specifically targeted.

- C. Indicate the timeframe over which these identified benefits are expected to accrue.

### **3. COST-EFFECTIVENESS**

This statement should include information regarding whether a particular project accomplishes its goal in the least costly way possible compared to alternatives. In applying this criterion, the State will consider all the benefits and costs associated with a project compared to alternative solutions. The descriptions of each alternative do not have to be as detailed as the description of the proposed project, but enough information must be provided to demonstrate that the alternatives to the project were investigated and that the proposed project provides either greater benefits at the same or similar costs or similar benefits at a lower cost.

- A. Describe the alternatives that will accomplish the same or substantially similar goals as that of the proposed project. These alternatives could accomplish the goals of the proposed project, but in a different way, under a different time frame, or with different costs and benefits. A discussion of a minimum of two to three alternatives is expected. Include the no action alternative (i.e., natural recovery), if applicable; however, in most cases the no action alternative would not accomplish project goals.
- B. Compare the benefits and costs of each of the alternatives and provide justification for the selection of the preferred alternative. Provide any information on the cost-effectiveness of implementation as an Early Restoration action rather than upon completion of the restoration plan. Costs of the alternative approaches should be detailed enough to compare to costs of the preferred alternative provided under Step 6. If you have a project for which such a detailed cost comparison of approaches is not feasible, such as a land acquisition project, then explain such limitations to comparing alternatives.

C. If the alternative selected is not the lowest cost alternative or does not provide the greatest net benefit of the alternatives analyzed, provide the reasons for the selection of this alternative.

D. Identify project matching funds, if any, to be used directly on the selected alternative.

#### **4. ADVERSE ENVIRONMENTAL IMPACTS**

This criterion is addressed under Step 4 in the Environmental Checklist and Narrative; therefore, no additional response is required here.

#### **5. RESULTS OF RCRA/SUPERFUND RESPONSE ACTIONS (Readily Available Information)**

This statement should include a discussion of the results or anticipated results of RCRA/Superfund response actions (defined on p. A-1) underway, or anticipated, in the East Helena NRD Settlement that are relevant to the proposed project. Application of this criterion will require the State to assess, given the inherent uncertainties associated with this task, what response actions it will entail and to make projections as to their effects on resources and services. The State will evaluate what is necessary in the way of restoration of resources and services in light of ongoing and planned response actions and evaluate the degree of consistency between a proposed project and response actions. Projects that duplicate or may duplicate the effects of a response action on natural resources or services will be disfavored. Projects located where the remedial design has not been completed will also be disfavored if a potential exists for the proposed restoration activities to be accomplished under remediation or to interfere with proposed remediation.

Given the multiple response actions underway or anticipated and multiple entities involved in those response actions, it may be difficult to address this criteria. Therefore, applicants are requested to provide readily available information they have on this criterion and the State will collect any necessary additional information.

A. Identify and describe any ongoing and planned response actions of which you are aware that affect or may affect the natural resources or services addressed by your proposal.

B. Describe how the proposal coordinates with ongoing or planned response actions of which you are aware.

1. What steps are included to account for ongoing or planned response actions?
2. Does your proposal augment an ongoing or proposed response action? If so, how?
3. Will implementation of your proposal in any way require that ongoing or proposed response actions be altered?

#### **6. RECOVERY PERIOD AND POTENTIAL FOR NATURAL RECOVERY (Readily Available Information)**

The applicant should evaluate whether the resource and/or services their proposal addresses can recover naturally and estimate how long natural recovery would take. This

analysis will help to place the project's benefits in perspective by comparing the length of time it will take for the resource and/or services to recover if the project were implemented compared to the "No Action-Natural Recovery Period" alternative (defined in Attachment A).

The State recognizes the difficulty some applicants may have in predicting the timeframes for recovery to baseline conditions with the project and without any additional action beyond remedy. Provide time ranges (e.g., 1-10 years vs. 10-50 years vs. 50-100 years, or longer) and identify any uncertainties. Applicants are requested to provide readily available information they have on this criterion and the State will collect any necessary additional information.

- A. Evaluate the potential for natural recovery of the natural resource and/or services addressed by your proposal.
- B. Describe how your proposal would enhance the time frame for natural recovery.

## **7. FEDERAL, STATE, AND TRIBAL POLICIES, RULES AND LAWS (Readily Available Information)**

This criterion entails the State's evaluation of the degree to which the project is consistent with applicable policies of the State, local government, the federal government, and Indian tribes; with applicable laws and rules; and with consent decrees. As part of the evaluation of this criterion, the State will assess whether a project would potentially interfere, overlap, or partially overlap with the restoration work covered under current or planned consent decrees or restoration plans. Because these requirements are extensive, applicants are required only to address the following items in this criteria statement:

- A. Identify any permits or other regulatory approvals that have been obtained and those that must be obtained to complete the project, and include pertinent dates.
- B. Discuss coordination with local entities.
  - 1. What efforts have been made to contact local governmental entities regarding the project?
  - 2. What specific measures will be taken to ensure that the project is coordinated with local governmental activities and complies with local governmental requirements?
  - 3. If your project involves land management activities, explain how you have or will meet the state and local weed management requirements and what efforts you have made or will make to coordinate with the local Weed Control District.
- C. Discuss how the proposal is affected by and is consistent (or inconsistent) with any other applicable laws and rules, policies, or consent decree requirements of which you are aware. If necessary, the State will supplement information provided by applicants.

## **8. NORMAL GOVERNMENT FUNCTIONS**

The East Helena NRD Settlement Restoration Fund will not be used to fund activities for which a government agency (local, state or federal) would normally be responsible or that would

receive funding in the normal course of events. With this criterion, the State will evaluate the likelihood that a particular project would be implemented if recovered natural resource damages were not available. The East Helena NRD Settlement Restoration Fund may be used to augment funds normally available to government agencies if such cost sharing would result in implementation of a restoration project that would not otherwise occur through normal agency function.

- A. Describe what proposed activities, if any, are those for which a governmental agency is legally or otherwise would normally be responsible for, or for which a governmental agency could receive funding in the normal course of events.
- B. If your project augments funds normally available to government agencies, explain why the project cannot be implemented without Restoration funds.

#### **10. PRICE (applies to acquisition projects only (e.g., land, water rights))**

Acquisitions may only be approved when the price to be paid for the property is equal to or less than fair market value. In this criteria statement, explain the basis for the price of the property to be acquired and how it compares to its fair market value. Consideration of this criterion may require the State to conduct its own evaluation or appraisal of the property. For land acquisitions normally an independent appraisal by a qualified appraiser, which complies with the *Uniform Standards of Professional Appraisal Practice*, will be required to verify the property's value.

- A. Explain the basis for the price of the property and how it compares to market value.
- B. Indicate any encumbrances on the property. The determination of encumbrances should be made with the assistance of a title report on the property issued by a title insurance company.
- C. Attach any appraisal documents as well as any other documents or agreements (e.g., title reports, documents evidencing encumbrances on the property, purchase, option, or easement agreements) that are relevant to the project.
- D. Provide documentation of the property owner's commitment to the project, such as a letter. Also, identify any financial relationship that exists between the applicant and the property owner.

#### **Step 6. Proposal Budget**

Complete the **budget estimate forms** and **budget narrative**. Budgets should estimate costs as completely and accurately as possible. Complete these forms on the EXCEL spreadsheets provided with the application. These spreadsheets are available electronically as a separate file from the NRDP website. There are complete example budgets also available on the website. Complete the Budget Detail Form first. The numbers from this form will be carried over to the Budget Summary Form. The tasks indicated in the budget sheets should match the tasks outlined in the Technical Narrative (Step 4).

The State will only reimburse costs that relate directly to the proposed project and that would only be incurred if the project were to be implemented. The Budget Summary Form and Budget Detail Form include major expense categories.

#### **A. BUDGET ESTIMATE**

Use the attached Budget Summary Form and Budget Detail Form to complete your budget estimate. Information regarding the following expense categories should be included in your budget estimate. **Submit both the Budget Summary Form and Budget Detail Form in your applications.** If your project is a multi-year project, costs must be broken down by year.

1. **Salaries and Wages** – Identify each employee required to complete the project. List all participants by name and position, or by position only if not yet hired. List the estimated number of hours each employee will work and the hourly wage rate. Include in this category clerical, bookkeeping, and other support staff services that would be reimbursed by East Helena NRD Settlement Restoration Funds.
2. **Employee Benefits** – Enter the employee benefits to be paid and the rate or method by which they were calculated.
3. **Administrative Fees, Overhead, or Indirect Fees** – Preferably, any administrative costs, such as those incurred to handle project financial accounting, reporting, and contracting matters, should be charged as a direct, project-specific labor cost based on actual time spent that is logged and documented via time sheets, rather than on a percentage fee basis. If your project includes an administrative fee that is based on a certain percentage of total project costs, identify that fee and specify what costs/services are covered under that overhead and provide backup documentation on the validity of this fee, such as an audit of the fee. For overhead or indirect costs, include an explanation for how these costs are charged on a project-specific basis and provide backup on the validity of these fees.
4. **Contracted Services** – Identify any services to be provided by others hired under contract for professional services or construction. This category includes, but is not limited to, consultant and construction services, materials, equipment, data processing, printing, and laboratory testing. List each specific service to be performed and the wage rate associated with it.

Design/Contingency Costs for projects involving construction: Construction service contracts should include a contingency to cover unexpected expenses. Applicants for these projects should research current market trends for construction materials and labor and adjust costs appropriately. Provide documentation for the choice of contingency rate, which should not exceed 20%. Many fixed cost items do not need a contingency applied to them. Also specifically identify the engineering design costs for construction type projects. Engineering design costs can be based on an estimated level of effort by project engineers or estimated based on a percentage of construction costs. For projects that have standard designs, an engineering design cost of no more than 10% is suggested. For

projects that do not have standard engineering designs, a design cost of no more than 15% is suggested.

5. **Supplies and Materials** – List major office supplies and materials necessary to prepare, conduct, or construct this project. These items are generally consumable commodities purchased for inventory or immediate use by the applicant and cost less than \$250. List the costs of all major items.
6. **Communications** – Include telephone, postage, mailing, and advertising costs in this category.
7. **Travel** – List only costs for travel that is essential to conduct the project. Detail the expected travel destination, the purpose of the travel, the number of people traveling, and the number of trips to be made. Travel rates may not exceed the current state employee rates for meals, lodging, and mileage.
8. **Rent and Utilities** – List the terms and costs specific to the project that are associated with buying or renting office space, storage, computer rental, other office equipment use, additional project space requirements, and applicable utility expenses. Include an explanation of the methodology for how these costs are charged on a project-specific basis.
9. **Equipment** – Include in this category articles leased or purchased for use on the project by the applicant. These items generally are of a non-consumable nature, have an estimated life of more than one year, and cost greater than \$500. List all necessary items and their costs. The NRDP has an equipment policy that is available on NRDP website or upon request by NRDP.
10. **Miscellaneous** – Identify any other costs required to complete the project. List any other project costs, such as repairs or maintenance, that have not been addressed in other budget categories. The State will not pay interest on loans taken out to cover project expenses. Explain the basis for any contingency costs, beyond the contingency costs associated with construction projects, which is to be addressed under item # 4.

## **B. BUDGET NARRATIVE**

The budget narrative must clearly demonstrate that the project can be completed within the proposed budget. To accomplish this goal, address the following issues.

1. Provide a general discussion of the spending plan, and explain each budget item in relation to the total budget.
2. The budget narrative should clearly state the assumptions used to develop the proposed budget.
3. Include the sources of all cost estimates in the budget narrative.
4. Justify project expenditures reported on the budget forms.
5. Describe the basis for your computations.
6. Describe what contingencies exist for cost-overruns, such as construction contingencies.

7. Indicate what mechanisms of financial assurance, such as letters of credit or performance bonds, have been or will be obtained.

**Matching Funds:** The budget forms should indicate the cash and in-kind matching funds and the budget narrative should describe your efforts toward securing those funding commitments. The State will calculate the cash and in-kind matching fund contributions separately by determining the percentage of the total project costs for activities under the project's scope of work to be funded by cash or in-kind contributions from other sources besides Restoration Funds. If a project is approved, the applicant is obligated to contribute the indicated matching fund amount to the project. Please address the following issues:

1. If you applied to other funding agencies, give the date of your application, the date a funding decision is expected, and whether you requested a grant or a loan. Provide documentation.
2. Provide verification of committed matching funds, such as an award letter.
3. Indicate whether the matching funds are cash or in-kind contributions.
  - Cash contributions are project-specific contributions provided by an individual or organization for which documentation can be provided of a cash transaction by the applicant, project sponsors, or partners.
  - In-kind contributions are project-specific contributions of a service or a product provided by an individual or organization where the cost cannot be tracked back to a cash transaction by the applicant, project sponsors, or partners. Examples of in-kind expenses include donated labor and equipment.
4. Identify any loans used as matching funds and indicate the planned mechanism to pay back the loans.

If the project will require funding beyond the period for which funds are requested, include a plan describing how subsequent funds will be obtained.

Please use the following format in presenting your Budget Narrative on your own paper:

## **Budget Narrative**

**Applicant Name:** \_\_\_\_\_

**Project Title:** \_\_\_\_\_

[text]

Application		BUDGET DETAIL FORM				
EXPENSE CATEGORY		UCFRB RESTORATION FUND	MATCHING FUNDS			TOTAL
			Cash	In-Kind	Subtotal	
1	SALARIES AND WAGES (List all worker salaries)					
	Insert Row					
	SALARIES AND WAGES SUBTOTAL					
2	FRINGE BENEFITS					
	Insert Row					
	FRINGE BENEFITS SUBTOTAL					
3	CONTRACTED SERVICES (LIST BY TYPE)					
	Insert Row					
	CONTRACTED SERVICES SUBTOTAL					
4	SUPPLIES AND MATERIALS					
	Insert Row					
	SUPPLIES AND MATERIALS SUBTOTAL					
5	COMMUNICATIONS					
	Insert Row					
	COMMUNICATIONS SUBTOTAL					
6	TRAVEL					
	Insert Row					
	TRAVEL SUBTOTAL					
7	RENT AND UTILITIES					
	Insert Row					
	RENT AND UTILITIES SUBTOTAL					
8	EQUIPMENT					
	Insert Row					
	EQUIPMENT SUBTOTAL					
9	MISCELLANEOUS					
	Insert Row					
	MISCELLANEOUS SUBTOTAL					
ALL CATEGORIES SUBTOTAL						

Application		BUDGET SUMMARY FORM				
EXPENSE CATEGORY		EAST HELENA NRD SETTLEMENT RESTORATION FUND	MATCHING FUNDS			TOTAL
			Cash	In-Kind	Subtotal	
1	SALARIES AND WAGES					
2	FRINGE BENEFITS					
3	CONTRACTED SERVICES					
4	SUPPLIES AND MATERIALS					
5	COMMUNICATIONS					
6	TRAVEL					
7	RENT AND UTILITIES					
8	EQUIPMENT					
9	MISCELLANEOUS					
TOTAL						

In electronic form this spreadsheet will automatically calculate the expense totals from the Budget Detail Form.

# SUPPLEMENTAL GUIDANCE

## ATTACHMENT A

### DEFINITIONS

The short definitions that follow are intended to help applicants identify the types of projects that will restore, rehabilitate, replace, and/or acquire the equivalent of injured natural resources and/or lost services.

**Natural Resources:** “Natural resources” that may be addressed using the East Helena NRD Settlement Restoration Fund include the land, fish, wildlife, biota, air, surface water, ground water, and other resources that: 1) are owned by or held in trust, managed or controlled by the State of Montana; 2) have been injured from exposure to or contact with hazardous substances generated by ASARCO’s mineral processing and smelting operations at the East Helena Smelter site.

**Services:** “Services” are the physical and biological functions, including the human use of those functions, performed by the natural resource, or that would have been performed by the natural resource had it not been injured by the release of hazardous substances. A service provided by an injured natural resource, or that would have been provided absent the injury to the natural resource, may also be addressed using East Helena NRD Settlement Restoration Fund. Services include ecological services such as flood control and erosion control, habitat, and food chains, as well as human services such as recreation and drinking water consumption.

**Injury:** “Injury” to a natural resource is the measurable adverse change in the chemical, physical, or biological quality or the viability of a natural resource resulting from exposure to a release of a hazardous substance.

**Baseline:** “Baseline” refers to the condition of a natural resource and the services it provided that would have existed had the discharge of the hazardous substance not occurred.

**No Action-Natural Recovery Period:** “No Action-Natural Recovery Period” refers to the time needed for recovery of an injured resource to baseline conditions if no restoration efforts are undertaken beyond response actions. This time period depends on many factors, including the extent of the injury, the persistence in the environment of the hazardous substance to which the natural resource is exposed, and the extent of response actions or other human intervention.

**Response or Corrective Actions:** “Response or Corrective actions” are those measures undertaken by the U.S. Environmental Protection Agency or the State of Montana at contaminated sites that are deemed necessary to protect the public health or welfare or the environment from continued or further harm. Response or corrective actions at the East Helena Smelter site may also restore natural resources.

**Restoration:** The term “restoration” is used in both a general sense and specific sense in this document. Used in a general sense, “restoration” generally refers to the four types of actions authorized under state and federal law to address injuries to natural resources (i.e., restoration, rehabilitation, replacement, and acquisition of the equivalent natural resources). Used in the

specific sense, “restoration” refers to actions that operate directly on the injured resources and services to return them to baseline conditions or to accelerate the recovery process. For example, in a situation where numerous sources are contaminating groundwater, removing the most significant sources would lessen the injury and result in the groundwater’s recovery, or “restoration,” to baseline sooner than would otherwise occur.

**Rehabilitation:** Actions constituting “rehabilitation” attempt to return the injured resources and services to a state different than their baseline condition, but still beneficial to the environment and the public. For example, where injury to a conifer forest resulted in a loss of upland big game habitat, planting grasses and shrubs would create upland bird habitat while only beginning the process of restoring upland big game habitat.

**Replacement:** Actions constituting “replacement” seek to create or enhance resources and services equivalent or very similar to those that have been injured, but away from the immediate site of the injury. For example, where an injury to a trout fishery has occurred, improvements to a nearby stream would enhance its trout fishery and would, in effect, constitute “replacement” of the injured fishery.

**Acquisition of Equivalent Resources:** Actions constituting “acquisition of equivalent resources” involve acquiring unimpaired resources comparable to those that are injured. Acquisition of equivalent resources can hasten recovery or protect the injured natural resources. For example, acquiring healthy land adjacent to injured land can relieve pressure on the injured land and hasten its recovery. Or acquisition of equivalent resources may compensate the public for its diminished ability to use the injured resources. For example, although acquiring unimpaired land for public use does not restore the land that has been injured, it does make other land available for public use.